

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Part 22 of the Commission's)	WT Docket No. 03-103
Rules To Benefit the Consumers of Air-Ground)	
Telecommunications Services)	
)	
Biennial Regulatory Review-Amendment of)	
Parts 1, 22, and 90 of the Commission's Rules)	
)	
Application of Verizon Airfone Inc. for Renewal)	File No. 0001716212
of 800 MHz Air-Ground Radiotelephone License,)	
Call Sign KNKG804)	

To: The Commission

**REPLY OF AIRCELL, INC.
TO OPPOSITION OF VERIZON AIRFONE**

AirCell, Inc. ("AirCell") submits this Reply to the June 16, 2005 Opposition filed by Verizon Airfone in response to AirCell's Petition for Partial Reconsideration ("Petition") of the Commission's air-to-ground ("ATG") Report and Order ("*Order*"). ^{1/}

I. VERIZON'S OPPOSITION FAILS TO PROVIDE ADEQUATE JUSTIFICATION FOR A TWO YEAR TRANSITION PERIOD

In its Petition, AirCell pointed out that the *Order* provided a substantial two year transitional period for Verizon, without any apparent basis in the record on which to determine how long it should actually take Verizon to complete such a transition. Based on its own

^{1/} *Amendment of Part 22 of the Commission's Rules To Benefit the Consumers of Air-Ground Telecommunications Services*, WT Docket No. 03-103, Report and Order, FCC 04-287 (rel. Feb. 22, 2005) ("*Order*"). AirCell's Petition requested that Verizon be required to consolidate its incumbent narrowband air-ground operations into a 1 MHz spectrum block within a transitional period of six months after the close of the ATG auction, instead of the two years from initial ATG license grant, as contained in the *Order*. The Petition also requested that Verizon's existing narrowband ATG license be renewed for a term of only two years, instead of the five years granted by the Order, unless a new ATG service was not yet in place.

experience with ATG networks, AirCell suggested that Verizon should be able to complete the transition within six months, although it invited Verizon to “demonstrate with specificity” any reasons why the transition might require longer than this.^{2/} Instead of providing detailed time estimates for the various stages of the transition, however, Verizon’s Opposition offered a few generalities that raise more questions than they answer.

As an initial matter, Verizon did, at least, clarify that it relies on ground stations which cannot be remotely programmed to avoid transmissions on specific frequencies. Even if on-site visits are necessary, however, Verizon did not dispute the fact (taken from its own website) that its ground network consists of only 135 sites in North America. This small number of site visits would be considered almost *de minimus* for national terrestrial wireless carriers, like Verizon’s affiliate Verizon Wireless.^{3/} Verizon indicated that the software used in its ground stations will need to be modified, but did not explain why the software rewrite could not begin now, even if it is not finalized until the close of the auction when the revised ATG band plan will be known. Planning should not be overly complex as there are, after all, only two possible post-auction scenarios: the incumbent network will have to transition either to the top of the band or to the bottom of the band.

Once the software is revised, Verizon stated it would need to install the new software at each ground station and evaluate the need for emission filters. Verizon provided no estimate regarding how long such installation and evaluation should take at each site, therefore making it

^{2/} Petition at 6.

^{3/} Petition at 5, n.14. It is not unreasonable to expect Verizon Airfone to rely on the resources of Verizon Wireless, given how tightly the services of these affiliates are integrated. For example, Verizon Wireless customers receive substantial discounts (82% or more) off Verizon Airfone’s per minute rates, and Verizon Wireless customers can have their calls forwarded directly to their seats in Verizon Airfone-equipped aircraft. See <http://www22.verizon.com/airfone/>.

difficult for the Commission to determine how much time is required for this component of the transition plan.^{4/}

AirCell was also surprised that Verizon claimed that all of its mobile stations will need to be manually reprogrammed in order to limit its narrowband network operations to a smaller portion of the ATG band. Based on the legacy ATG rules, it is obvious that each mobile unit must have the capability of scanning the entire ATG band, as channels throughout the band were intended to be shared among six providers. Moreover, in typical wireless network architectures, the channels used by mobile stations are normally dictated by the base station through the use of forward pilot links. Thus, it would not normally be necessary to “reprogram” a mobile unit to avoid transmitting on certain channels, as the units would ordinarily use only those channels indicated by a controlling base station as being available. Again, more explanation is needed before the Commission should base any decision on this assertion.

Finally, Verizon claimed that the existence of ground stations in Canada and Mexico also contributes to the need for a two-year transition.^{5/} However, Verizon failed to explain whether it believes that confining its operations to a smaller portion of the ATG band would require any foreign regulatory approvals. Verizon should fully explain its reasoning so that the Commission can accurately assess the validity of the proffered rationale.

II. CONCLUSION

As explained above, many questions remain unanswered relating to the justification for a two year transition period. Rather than the generalities contained in its Opposition, the Commission should request that Verizon provide it with full explanations and specific,

^{4/} Verizon also did not discuss its planned staffing for the transition. Given the asserted need for two years, and without a better explanation of the justification, one could easily conclude that Verizon is planning the most minimal staffing possible.

^{5/} Opposition at 6. Again, Verizon’s website asserts that there are only 135 ground stations for *North America*, so the sites in Mexico and Canada should already be included in this figure.

quantifiable technical data relating to each step of the planned transition, so that the Commission will have an adequate factual basis on which to determine a reasonable transition period.^{6/} Moreover, the Commission should consider imposing one or more interim benchmarks for the transition process, as it has done in other spectrum transition proceedings.^{7/} If Verizon really will require the full two years, interim benchmarks will help ensure that the transition is completed on time, and will minimize the likelihood that Verizon would need to request a waiver for an extension of time to complete the transition, which would further delay the introduction of broadband air-to-ground services to the public.

Respectfully submitted,
AIRCELL, INC.

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^{6/} If Verizon believes some of this data to be proprietary, Verizon could provide it to the Commission with a request for confidential treatment. If necessary, the Commission could enter a protective order as it has done in the past with confidential information submitted in rulemaking proceedings.

^{7/} See, e.g., *Improving Public Safety Communications in the 800 MHz Band*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, 19 FCC Rcd 19651 (2004) at ¶ 28.

CERTIFICATE OF SERVICE

I, Gayle Hall, certify that I have, on this 27th day of June 2005, caused to be served, via USPS first-class mail, a copy of the foregoing Reply to Opposition to Petition for

Reconsideration on:

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/S/ Gayle Hall